IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 728 of 2005

Between:

The Kurnool District Milk Producers

Mutually Aided Co-Op Union Limited, Nandyal,

rep. by its Chairman,
Sri B. Narayana Reddy.

..... PETITIONER

AND

1 The Registrar of the Mutually Aided Cooperative Societies, A.P.,

Hyderabad.
2 The District Cooperative Officer-cum-the Joint Registrar- of the

Mutually Aided Cooperative Societies,
Kurnool District.
3 Divisional Cooperative Officer, Nandyal.
4 Sri S.C. Mohan Reddy, Member of Legislative Assembly, Nandyal.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction, more particularly one in the nature of writ of prohibition declaring the proceedings of the first Respondent in Rc.No.39372/2004/Legal(MACS), dt. 10.12.2004 and all consequential proceedings including the Notice of the third Respondent bearing Rc.No.1864/2004-B dt. 06.01.2004, as illegal, contrary to law, without jurisdiction and vitiated by malafides, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M.V.DURGA PRASAD

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following :

ORDER:

The Kunool District Milk Producers Mutually Aided Cooperative Union Limited, represented by its Chairman Sri.B.Narayana Reddy, is the petitioner assailing the proceedings R.C.No.39372/2004/Legal(MACS), dated 10.12.2004, whereby and whereunder the first respondent ordered an enquiry under Section 29(2) of the A.P.Mutually Aided Cooperative Societies Act, 1995 (for short 'the Act') to conduct enquiry into the contents of a petition given by the Member of Legislative Assembly of Nandyal regarding the facts of omission and commission by Sri.P.Bhusanna, Managing Director, Kunool District Milk Producers Mutually Aided Cooperative Union Limited. The petitioner seeks a writ of Prohibition declaring the impugned proceedings and consequential proceedings, dated 06.01.2005, issued by the Enquiry Officer calling upon the Managing Director, Bhusanna, to produce certain records.

This Court while admitting the writ petition by interim order dated 31.01.2005, stayed all further proceedings pursuant to impugned order and the notice issued by the Enquiry Officer. Respondent Nos.2 and 3 have now moved an application, being W.V.M.P.No.1225 of 2005, for vacating the interim order. As the submissions for the purpose of interim order and main case are same, the matter was heard final and is being disposed of by this order.

The learned counsel for the petitioner, Mrs.A.Jayanthi, vehemently submits that the impugned order is passed without power or jurisdiction. According to the learned counsel, under Section 29(2) of the Act, the Registrar-the first respondent can hold an enquiry and cause enquiry only on suo motu or an application of the federation or of a creditor. In this case according to the learned counsel enquiry was ordered against the Managing Director on a petition addressed by the local Member of Legislative Assembly to the Chief Minister of Andhra Pradesh. Therefore, she would urge that a writ of Prohibition must issue injuncting the Divisional Cooperative Officer from proceeding with the enquiry.

The learned Government Pleader, Sri.Sheshagiri Rao, submits that on a petition

submitted by the local Member of Legislative Assembly with regard to the facts of omission and commission by the Managing Director of the Kunool District Milk Producers Mutually Aided Cooperative Union Limited, enquiry was ordered against him and therefore, the writ petition filed by the Chairman, B.Narayana Reddy, is not maintainable. Secondly, he would urge that even though the enquiry was ordered, taking action on the petition submitted by the local Member of Legislative Assembly it should be deemed to be a suo motu enquiry and therefore at the stage of enquiry there cannot be any writ of prohibition.

It is now well settled that a writ of prohibition shall issue from this Court only when a public authority is shown to have inherently lacking the jurisdiction to entertain a matter. It is not specifically denied that under Section 29(2) of the Act the first respondent is competent to order an enquiry or hold an enquiry. In this case the first respondent already initiated enquiry by appointing the third respondent, as the Enquiry Officer and therefore, a writ of prohibition would not be proper remedy. Further, this Court finds force in the submission of the learned Government Pleader that the enquiry was ordered against Bhusanna, the Managing Director of the Kunool District Milk Producers Mutually Aided Cooperative Union Limited, on specific allegations that he appointed his own son as an agent of a Milk Parlour at Kurnool and that he was selling milk to other societies other than the Union at Hyderabad. It was also alleged that the Managing Director caused loss of Rs.3,00,000/- to the Union and purchased a bulk cooling units by paying Rs.80,000/- excess amount. This Court is not able to comprehend the actual grievance of the Union or its chairman in challenging the proceedings of the first respondent. The writ petition is misconceived.

The writ petition, with the above observations, is dismissed. No costs.

_____

(V.V.S.RAO, J)

14.06.2005

vs

-

To

1 The Registrar of the Mutually Aided Cooperative Societies, A.P.,

Hyderabad.

2 The District Cooperative Officer-cum-the Joint Registrar- of the

Mutually Aided Cooperative Societies,
Kurnool District.

3 Divisional Cooperative Officer, Nandyal.

4 Sri S.C. Mohan Reddy, Member of Legislative Assembly, Nandyal.

5 Two CCs to the G.P for Cooperation, High Court of A.P.,

Hyderabad(O.U.T).

6 2 CD copies